

EXHIBIT D -
CORRESPONDENCE
WITH COUNSEL

From: Cody Bailey <cbailey@brunini.com>
Sent: Thursday, July 30, 2020 7:43 PM
To: Marcy Croft; Vincent, Leonard
Cc: Carson Thurman; Trey Jones; Karen Howell; Gary Bufkin; Molly Walker; Jessica L. Rice; Rebekah S. Clayton; Christi G. Jones; Mary Clark Joyner; Chan E. McLeod; Ericson W. Enger; mbentley@bradley.com; David Kaufman; Jake Bradley
Subject: RE: COVID19 and Other Updates

Marcy:

As of today, Centurion and MDOC reported that 132 inmates at MSP have been tested for COVID-19; 43 have tested positive, 87 have tested negative, and 2 are pending.

Of the inmates whom we know are your clients because they are named Plaintiffs in Amos or Lang (or because you have identified them in your below email), we know the following: Daniel Guthrie (105808 - Unit 31, Zone C) tested positive on July 23, 2020; William Branch (156616 - Unit 30, Bldg. B, Zone B) tested negative on April 10, 2020; Jermaine Moore (82002 - Unit 31, Zone C) tested positive on July 23, 2020; James Sudduth (144850 - Unit 30, Bldg. C, Zone B) tested negative on May 28, 2020; Mark Atkinson (183698 - Unit 31, Zone C) tested positive on July 23, 2020; Donald Bernius (166339 - Unit 31, Zone D) tested negative on July 23, 2020; William Hogan (151816 - Unit 331, Zone A) tested negative on June 26, 2020 and again on July 23, 2020.

Also, we understand that none of the MSP staff who transported your team or clients for meetings at MSP on July 1, 2, 22, 24, or 27 have tested positive for COVID-19 or are otherwise having symptoms of COVID-19.

As for quarantines, we understand that Unit 31 and Unit 29, Bldg. A are the only buildings currently under quarantine. Unit 31 is on quarantine because inmates in that unit have tested positive for COVID-19, as noted above. Unit 29, Building A is on quarantine because it is being used as a transition unit where offenders have to remain for 14 days once they enter MSP from another facility and/or if they have an off grounds appointment.

It took me many hours to gather this information for you. I did it as a courtesy only. MDOC does not have an obligation to provide this information, and we will not be able to do it on any regular basis going forward. As I stated in previous emails, there are administrative procedures in place to address your client's concerns and for you to gather information you might need about your clients. There is no discovery pending in either Amos or Lang, and there is nothing to "supplement" under the rules.

Regards,
Cody

-----Original Message-----

From: Marcy Croft [mailto:MCroft@maronmarvel.com]
Sent: Thursday, July 30, 2020 3:14 PM
To: Cody Bailey <cbailey@brunini.com>; Vincent, Leonard <LVINCENT@mdoc.state.ms.us>
Cc: Carson Thurman <cthurman@carrollbufkin.com>; Trey Jones <TJones@brunini.com>; Karen Howell <KHowell@brunini.com>; Gary Bufkin <tgb@carrollbufkin.com>; Molly Walker <mmwalker@bradley.com>; Jessica L. Rice <JRice@maronmarvel.com>; Rebekah S. Clayton <RClayton@maronmarvel.com>; Christi G. Jones <CJones@maronmarvel.com>; Mary Clark Joyner <mcjoyner@carrollbufkin.com>; Chan E. McLeod

<CMcLeod@maronmarvel.com>; Ericson W. Enger <EEnger@maronmarvel.com>; mbentley@bradley.com
Subject: Re: COVID19 and Other Updates

Cody: Any update on this?

Marcy Croft | Attorney at Law
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On Jul 29, 2020, at 9:29 PM, Marcy Croft <MCroft@maronmarvel.com> wrote:

Cody: In addition to Plaintiff Daniel Guthrie, one of the 33 Named Plaintiffs in the Amos action, the clients last known to be in Unit 31 or 42 (the Hospital) are:

Name MDOC #
Adarius Andrews 196083
Daniel Guthrie 105808
Donald Bernius 166339
Jermaine Moore 82002
John Mahaffey 191745
Kewan Hosey 183982

Mark Atkinson 183698
Michael Caughorn 137432
Micheal Ray 136799
William Hogan 151816
John Barnett 131134

With respect to Unit 29A, we have know way of knowing who among our clients has been transferred to that building since it became the quarantine building. We are reliant solely on MDOC for that information per my email below.

- Marcy Croft

From: Marcy Croft
Sent: Wednesday, July 29, 2020 8:25 PM
To: Cody Bailey; Vincent, Leonard
Cc: Carson Thurman; Trey Jones; Karen Howell; Gary Bufkin; Molly Walker; Jessica L. Rice; Rebekah S. Clayton; Christi G. Jones; Mary Clark Joyner; Chan E. McLeod; Ericson W. Enger; mbentley@bradley.com; David Kaufman
Subject: RE: COVID19 and Other Updates

Cody: We believe the Court orders and discussion at the hearing are clear, as is your duty to supplement discovery under the rules. Regardless, we are requesting this information in good faith in light of these recent developments. (The Court encouraged the parties to first work informally on requests such as this, as you may recall.)

To answer your immediate question below, given MDOC's handling of COVID prevention and detection to date, our concern is for every single one of our clients and the putative class. We are not privy to information regarding which units/buildings/zones have had confirmed exposure, have been subject to quarantine (including within the last few weeks), have had tests conducted, or to which you may have transferred any of our clients. My questions below were crafted to help us determine some of that information so that we all could prioritize our focus. Per my original email below, we asked for:

- * the number of people living and working at Parchman who have been tested for the virus (by unit/bldg)*
- * the number of those that are positives/negatives/outstanding*
- * the timing and reasons behind any quarantines to which our clients have been subjected
- * whether any of the officers transporting our clients to interview with our legal team have tested positive (so that our legal team and their families can make decisions about their health/quarantine status)

We subsequently made a specific request that you tell us who among our clients has tested positive and that you notify us going forward when our clients are placed under quarantine or isolation. (One would presume that both of these events are/should be rare.)

Defendants are keenly aware of the identity of the plaintiffs who have filed suit against MDOC. While we can generate lists based on our last known location data, we do not know to which buildings/zones you may have transferred our clients since the last time we were able to communicate with them. If provided with the information requested above, we could generate a smaller list of priority clients based on our last known housing data. However, as MDOC maintains a list of who it acknowledges as our clients (although incomplete), it is presently the only party that holds all of the information necessary to answer our questions.

In the meantime, we wanted to at least check on the status of our clients in Unit 31, 29A, and 42 (the areas where positive cases were identified this afternoon) and any other clients who may have tested positive for

COVID (again, a list to which we are not privy). These are presumably very small lists of people to cross reference against the list of our clients that MDOC maintains. We certainly don't mean to upset anyone by sending follow-up emails on these topics, but given the gravity of the situation and the new outbreak at Parchman, it was important that we do so.

I trust this helps further explain our requests and the reasons behind them.

- Marcy

*The first two bullet points above reflect data that is allegedly gathered daily at all MDOC facilities so it should require no additional burden on MDOC to provide those numbers.

From: Cody Bailey [cbailey@brunini.com]
Sent: Wednesday, July 29, 2020 2:49 PM
To: Marcy Croft; Vincent, Leonard
Cc: Carson Thurman; Trey Jones; Karen Howell; Gary Bufkin; Molly Walker; Jessica L. Rice; Rebekah S. Clayton; Christi G. Jones; Mary Clark Joyner; Chan E. McLeod; Ericson W. Enger; mbentley@bradley.com; David Kaufman
Subject: RE: COVID19 and Other Updates

Bad faith? You have sent us no less than a dozen emails in the last 24 hours, and we have responded to each one. Leonard Vincent has already responded to your questions about recent COVID tests and quarantines. What specific questions have you asked that have not been answered? Do you not have a list of your own clients with whom you have specific concerns? Also, please point me to the authority on which you are relying for your position that MDOC has an ongoing obligation to report directly to you regarding what is happening with your clients. Again, there are procedures in place to address your concerns.

Cody

-----Original Message-----

From: Marcy Croft [mailto:MCroft@maronmarvel.com]
Sent: Wednesday, July 29, 2020 2:12 PM
To: Cody Bailey <cbailey@brunini.com>; Vincent, Leonard <LVINCENT@mDOC.state.ms.us>
Cc: Carson Thurman <cthurman@carrollbufkin.com>; Trey Jones <TJones@brunini.com>; Karen Howell <KHowell@brunini.com>; Gary Bufkin <tgb@carrollbufkin.com>; Molly Walker <mmwalker@bradley.com>; Jessica L. Rice <JRice@maronmarvel.com>; Rebekah S. Clayton <RClayton@maronmarvel.com>; Christi G. Jones <CJones@maronmarvel.com>; Mary Clark Joyner <mjoyner@carrollbufkin.com>; Chan E. McLeod <CMcLeod@maronmarvel.com>; Ericson W. Enger <EEnger@maronmarvel.com>; mbentley@bradley.com; David Kaufman <DKaufman@brunini.com>
Subject: RE: COVID19 and Other Updates

Cody: I respectfully and wholly disagree with your assessment of MDOC's obligations as stated below. Moreover, these allegations are not unsubstantiated. Just today, Defendants admitted for the first time that 35 people in Unit 31, 2 in Unit 29A, and 1 at Unit 42 have tested positive for COVID19. It is bad faith to claim that our questions here were/are unsubstantiated.

Most immediately, we would like to know the answers to the questions below with respect to any of our clients in 31, 29A, and 42 and any other zone under quarantine in the past 14 days. [We do not know the Units/Zones that have been under quarantine (and when those occurred). The ILAP office maintains a list of our clients per the new MDOC protocol that requires them to complete the ILAP form to see us.]

Finally, it is our understanding that while Unit 31 has been divided into "positive" and "negative" zones, at least one person whose test results were still pending was actually taken to the "negative" zone and then returned to the "positive" zone once his test came back. Thus, everyone who he (and any others who fall into that category) could have exposed would need to be retested. Given that Unit 31 is the disability unit, we thought it best to pass along this information to you as quickly as possible.

Thank you. We look forward to your prompt reply.

- Marcy Croft

Marcy Croft | Attorney at Law
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From: Cody Bailey [cbailey@brunini.com]

Sent: Wednesday, July 29, 2020 1:17 PM

To: Vincent, Leonard; Marcy Croft

Cc: Carson Thurman; Trey Jones; Karen Howell; Gary Bufkin; Molly Walker; Jessica L. Rice; Rebekah S. Clayton; Christi G. Jones; Mary Clark Joyner; Chan E. McLeod; Ericson W. Enger; mbentley@bradley.com; David Kaufman

Subject: RE: COVID19 and Other Updates

Marcy, while we have tried to accommodate your requests to investigate unsubstantiated allegations that your clients make and that you pass along to us, please note that MDOC does not have an ongoing obligation to keep you apprised of what is happening with each of your clients. Doing so would detract significantly from the medical care and other correctional services that MSP and Centurion are providing to all inmates. There are already procedures in place at MSP to address the issues you have raised, including but not limited to the sick call procedures and the ARP process. That said, if you want to send me a list of the specific clients that you are concerned about with regard to COVID testing (not all of your clients), I will try as a courtesy to you to determine whether they have been tested for COVID, when, and the result of the test.

Thanks,
Cody

Cody C. Bailey

E: <mailto:cbailey@brunini.com>

P: 601-973-8790 F: 601-960-6902

Brunini, Grantham, Grower & Hewes, PLLC

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-----Original Message-----

From: Vincent, Leonard [<mailto:LVINCENT@mdoc.state.ms.us>]

Sent: Wednesday, July 29, 2020 12:31 PM

To: Marcy Croft <MCroft@maronmarvel.com>

Cc: Cody Bailey <cbailey@brunini.com>; Carson Thurman <CThurman@carrollbufkin.com>; Trey Jones <TJones@brunini.com>; Karen Howell <KHowell@brunini.com>; Gary Bufkin <tgb@carrollbufkin.com>; Molly Walker <mmwalker@bradley.com>; Jessica L. Rice <JRice@maronmarvel.com>; Rebekah S. Clayton <RClayton@maronmarvel.com>; Christi G. Jones <CJones@maronmarvel.com>; Mary Clark Joyner <mcjoyner@carrollbufkin.com>; Chan E. McLeod <CMcLeod@maronmarvel.com>; Ericson W. Enger <EEnger@maronmarvel.com>

Subject: [FOUND_PHI_RECORD]Re: COVID19 and Other Updates

Unit 31 has been divided so that Covid+ inmates are isolated from Covid- inmates consistent with nursing home protocol.

The website has been having problems when it is updated. IT folks are actively working on it now.

These questions I already knew, the others require contacting other folks Leonard C. Vincent General Counsel Mississippi Department of Corrections

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Sent from my iPhone

On Jul 29, 2020, at 12:09 PM, Marcy Croft <MCroft@maronmarvel.com> wrote:

Leonard: I am moving the email correspondence between Cody, you, and me to this chain so that it is all in one place. The emails below are the most recent questions we posed with respect to COVID19 at Parchman. These are the questions for which we are seeking responses.

Thank you.

- Marcy

Marcy Croft | Attorney at Law

D: 601-960-8630 | mcroft@maronmarvel.com

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From: Marcy Croft
Sent: Tuesday, July 28, 2020 6:35 PM
To: Cody Bailey
Cc: Carson Thurman; Trey Jones; Karen Howell; Gary Bufkin; Molly Walker; Jessica L. Rice; Rebekah S. Clayton; Christi G. Jones; Mary Clark Joyner; Chan E. McLeod; Ericson W. Enger
Subject: RE: COVID19 and Other Updates

Cody: We would also specifically request that you let us know which of our clients have been tested, when, and the results. As always, please consider this to be an on-going request for information along with the request to be notified when our clients are placed in quarantine or isolation.

Thank you.

- Marcy

From: Marcy Croft

Sent: Tuesday, July 28, 2020 5:37 PM

To: Cody Bailey

Cc: Carson Thurman; Trey Jones; Karen Howell; Gary Bufkin; Molly Walker; Jessica L. Rice; Rebekah S. Clayton; Christi G. Jones; Mary Clark Joyner; Chan E. McLeod; Ericson W. Enger

Subject: COVID19 and Other Updates

Cody:

It's our understanding that a number of people incarcerated at Parchman - particularly in Unit 31 - have now tested positive for COVID19. We also noticed that MDOC did not update its COVID19 numbers on the website yesterday. (There have actually been several days over the last few weeks where the daily update failed to appear.)

Our understanding is that at least two of our clients in Unit 31 have now tested positive - Jermaine Moore and Michael Ray. In addition, we are hearing that positive COVID19 patients are being housed in Unit 31. This is especially concerning given that Unit 31 is the disability unit.

Given these new positive diagnoses and the rash of short-term quarantines in various units at Parchman over the last few weeks, we once again ask that you provide us information (by unit) with respect to the number of people living and working at Parchman who have been tested for the virus, the number of positives/negatives, the number of outstanding tests, and the timing and reasons behind any quarantines to which any of our clients have been subjected. This information is vital to maintaining the health of our clients and our team.

I am also very concerned that some of the people who have tested positive or have been quarantined/caused a quarantine (especially staff) may have also interacted with our lawyers and staff at Parchman. We heard, for example, that one of the officers who was transporting clients for us to interview earlier in the month actually tested positive days after some of my team had been there. As part of the contact tracing process, we assumed we would be notified if that were the case, but it appears that has not occurred. We would appreciate any update you can give and the information requested above.

Most importantly, however, we want to check on the status of our clients in Unit 31 and any other clients who may have been tested for COVID.

Thank you in advance for your prompt attention to this matter.

- Marcy Croft